IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 31ST JULY 2007 / 9TH SRAVANA 1929

Crl.MC.No. 2443 of 2007()

CC.885/1998 of CHIEF JUDL.MAGISTRATE, ERNAKULAM
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PETITIONER: ACCUSED

P.KRISHNA MOORTHY, S/O PARAMAN CHETTIAR,
AGED 44 YEARS, VANIAMKULAM ANGADI,
VANIAMKULAM (PO), OTTAPPALAM, PALAKKAD DISTRICT.

BY ADV. SRI.K.MOHANAKANNAN
SMT.A.R.PRAVITHA

RESPONDENTS: COMPLAINANT AND STATE
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1. CEARS AGRI BUSINESS,
REPRESENTED BY C.V.JOSEPH, MANAGING PARTNER,
XXVII/104, CHALAPPURAM BUILDINGS, ALAPPATT CROSS ROAD, KOCHI- 682 015, REPRESENTED BY ITS POWER OF ATTORNEY HOLDER SHRI.BAIJU KARAN.

2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI. M.S. BREEZE, PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 31/07/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No. 2443 Of 2007

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Dated this the 31st day of July, 2007

ORDER

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instrument Act. The proceedings were initiated as early as in 1998. According to the petitioner he had no knowledge about the proceedings. No notice or summons was served on him. His absence was not wilful. He is willing to co-operate with the Court for the expeditious disposal of the case against him. To show his bona-fides he is willing to produce before the learned Magistrate a demand draft for the entire amount covered by the cheque in the name of the complainant. The petitioner is also willing to agree to the course of the learned Magistrate releasing the said demand draft to the complainant. He apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He further prays that appropriate directions under Section 438 Cr.P.C may be issued in favour of the petitioner.

2. I am satisfied that appropriate directions can be issued. This petition is in these circumstances allowed in part. The following directions are issued:

i) The non bailable warrant issued against the petitioner shall not be executed till 07.08.07

ii) The petitioner shall appear before the learned Magistrate on 7.08.07. He shall produce the demand draft for the entire amount of the cheque in the name of the complainant along with a memo stating that he has no objection in the learned Magistrate releasing the said demand draft to the complainant.

iii) The learned Magistrate shall thereupon consider the application for bail on merits, in accordance with law and expeditiously- on the date of surrender itself.

iv) The petitioner's application for exemption from personal appearance, if any filed, shall also be considered by the learned Magistrate and appropriate orders passed, in accordance with law and expeditiously.

3. Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

sj